

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CITIZENS BANK,)	CAUSE NO. 1:04-CV-0079 SEB-VSS
Plaintiff,)	
vs.)	
)	
GRAY BROTHERS CAFETERIA OF)	
BLOOMINGTON, INC.; CHRISTINA L.)	
GRAY MILLER,, MICHAEL L.)	
GRAY, THERESA A NUSBAUM,)	
and UNITED STATES)	
SMALL BUSINESS)	
ADMINISTRATION,)	
)	
Defendants.)	
*****)	
UNITED STATES OF)	
AMERICA,)	
)	
Intervenor,)	
)	
vs.)	
)	
GRAY BROTHERS CAFETERIA OF)	
BLOOMINGTON, INC.; CHRISTINA)	
L. GRAY MILLER; MICHAEL L.)	
GRAY; THERESA A NUSBAUM;)	
AND CITIZENS BANK,)	
)	
Defendants.)	

AGREED JUDGMENT
AND DECREE OF FORECLOSURE

Come now the plaintiffs, Citizens Bank, by counsel Paul D. Ludwig, and the United States of America, Small Business Administration (“SBA”), by Susan W. Brooks, United States Attorney for the Southern District of Indiana, by Sue Hendricks Bailey, Assistant United States Attorney, and move for agreed judgment between them and for a decree of foreclosure,

foreclosing the interest in certain shares of stock pledged as collateral for Citizens Bank and the United States of America.

Citizens Bank, having filed its Declaration showing that there is now due and owing to it as set forth in the Complaint, on the promissory note dated August 14, 2003 in the original principal sum of \$850,309, the sum of \$378,430.89 as of August 16, 2005, with interest accruing at the rate of \$60.11 per day thereafter until date of judgment and on the promissory note dated May 23, 2003 in the original principal amount of \$105,747.00, the sum of \$ 102,531.34 as of August 16, 2005, with interest accruing at the rate of \$12.40 per day thereafter until date of judgment.

And the United States of America, having filed its Declaration showing that there is now due and owing to it as set forth in the Intervenor's Complaint the sum of \$746,349.57 as of November 2, 2005, with interest accruing at the rate of \$77.90 per day thereafter until the date of judgment; and that the other named defendants, Christina Gray Miller, Michael L. Gray, Theresa A. Nusbaum and Gray Brothers Cafeteria of Bloomington, Inc., have received discharge of their liabilities pursuant to Chapter 7 of the United States Bankruptcy Code and any interest in the shares of stock referenced below have been abandoned by said parties and their respective bankruptcy estates; and

The Court now FINDS the following:

1. There is now due Citizens Bank on a promissory note from now discharged defendant Gray Brothers Cafeteria of Bloomington, Inc. (hereinafter referred to as Gray Brothers of Bloomington) per its promissory note dated August 14, 2003 in the original principal amount of \$850,309.00 the sum of \$378,430.89 as of August

16, 2005. Interest continues to accrue on the principal amount due at a rate of \$60.11 per diem.

2. Gray Brothers of Bloomington filed for protection under 11 U.S.C. Chapter 7 under Case NO. 03-22204-AJM-7, United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division. The bankruptcy case has been closed. No personal judgment is sought against this defendant.
3. Christina Gray Miller, Michael L. Gray, and Theresa A. Nusbaum issued their secured guarantys of the promissory note dated August 14, 2003 as referenced above.
4. To secure their guaranties, Michael L. Gray, Christina Gray Miller and Theresa A. Nusbaum each pledged 836.72 shares of Stock in Gray Brothers, Inc., a corporation not a party hereto, for a total of 2510.16 shares of stock in Gray Brothers, Inc. which was pledged. Citizens Bank is entitled to a decree of foreclosure of these stock certificates.
5. Michael L. Gray was discharged under Title 11 U.S.C. Chapter 7 under Case NO. 04-04529 filed in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division on September 21, 2004. Christina Gray Miller was discharged under Title 11 U.S.C. Chapter 7 under Case No. 03-72272BHL-7 filed in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division, on February 19, 2004. Theresa A. Nusbaum was discharged under Title 11 U.S.C. Chapter 7 under Case No. 03-23633-AJM-7 filed in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division, on April 7, 2004. No personal judgment is sought against

these defendants. Each of their bankruptcy estates has abandoned any claim to the shares of stock reference above.

6. There is now due the United States of America on the promissory note dated August 15, 2003 from discharged defendant Gray Brothers of Bloomington the sum of \$746,349.57 as of November 2, 2005 and accruing interest thereafter to date of judgment at the rate of \$77.90 per diem. The United States of America does not seek personal judgment against Gray Brothers of Bloomington on account of its bankruptcy filing as referenced above.
7. There is now due the United States of America on the secured guaranties of discharged defendants Michael L. Gray, Christina Gray Miller, and Theresa A. Nusbaum, the sum of \$746,349.57 as of November 2, 2005 and accruing interest thereafter to date of judgment at the rate of \$77.90 per diem. The United States of America does not seek personal judgment against Michael L. Gray, Christina Gray Miller, and Theresa A. Nusbaum on account of their discharges in bankruptcy as referenced above.
8. The United States of America is entitled to judgment of foreclosure against the pledged stock interest of Michael L. Gray, Christina Gray Miller, and Theresa A. Nusbaum.
9. There is now due Citizens Bank on a promissory note from the now discharged Gray Brothers of Bloomington dated May 23, 2003 in the original principal amount of \$105,747.00 the sum of \$102,531.34 as of August 16, 2005. Interest continues to accrue on the principal amount due at a rate of \$12.40 per diem, plus

attorneys' fees incurred herein of Fourteen Thousand Five Hundred Dollars (\$14,500.00).

10. Michael L. Gray, Christina Gray Miller, and Theresa A. Nusbaum issued their secured guaranties of the May 23, 2003 note.
11. To secure their guaranties, Michael L. Gray,, Christina Gray Miller and Theresa A. Nusbaum each pledged 836.72 shares of stock in Gray Brothers, Inc., a corporation not a party hereto, for a total of 2510.16 shares of stock in Gray Brothers, Inc., which was pledged, which are the same shares of stock referenced in paragraph 4 and 8 above. Citizens Bank is entitled to a decree of foreclosure of these stock certificates.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court:

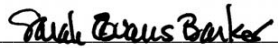
1. That Citizens Bank be granted an in rem judgment against the pledged stock interest of Michael L. Gray, Christina Gray Miller, and Theresa A. Nusbaum on their secured guaranties securing the August 14,2003 note in an amount of \$378,430.89 as of August 16, 2005, and continuing to accrue interest at a rate of \$60.11 per diem.
2. That the United States of America be granted an in rem judgment against the pledged stock interest of Michael L. Gray, Christina Miller Gray, and Theresa A. Nusbaum on their secured guaranties securing the August 15, 2003 note in an amount of \$746,349.57 as of November 2, 2005, which continues to accrue interest to date of judgment at the rate of \$77.90 per diem or 4.125% interest per annum

3. That Citizens Bank have and recover against the pledged stock interest of Michael L. Gray, Christina Miller Gray, and Theresa A. Nusbaum on the May 23, 2003 note an in rem judgment in the sum of \$102,531.34 as of August 11, 2005, which continues to accrue interest to date of judgment at the rate of \$12.40 per diem, plus attorney's fees of Fourteen Thousand Five Hundred Dollars (\$14,500.00)
4. That the 2,510.16 shares of stock in Gray Brothers, Inc. which were pledged as collateral for these three loans by Michael L. Gray, Christina Miller Gray, and Theresa A. Nusbaum be foreclosed. The equity of redemption, and any and all right, title, interest, and claim of said persons, and of all persons claiming by, through, or under them in and to the stock certificates, be and the same is hereby forever barred and foreclosed. Said stock certificates, and all right, title, interest and claim of said defendants and of all persons claiming by, through or under them in and to the same, be sold by the United States Marshal for the Southern District of Indiana, in accordance with the laws governing judicial sales, without relief from valuation and appraisal laws.
5. That the proceeds from the sale of the stock certificate be applied to the May 23, 2003 and August 14, 2003 loans by Citizens Bank and to the United States loan as the Court shall determine upon resolution of their respective interests in further proceedings herein.
6. That in the event they bid at said sale, Citizens Bank and the United States shall jointly bid at sale and become joint purchasers at such sale of the foreclosed property and make payment therefor with such part of their judgments which were

secured by said stock agreements. Their respective interests in said stock thereafter shall then be determined per paragraph 5, above.

It is so ORDERED.

Dated: 11/10/2005


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

The following consent to the foregoing judgment entry and decree of foreclosure:

/s/ *Paul Ludwig* by Sue Hendricks Bailey
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